

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

FILED
IN CLERK'S OFFICE
DISTRICT COURT E.D.N.Y.

JUN 27 2013

BROOKLYN OFFICE

CLINTON CAMPBELL,

Plaintiff,

-against-

STEPHEN BEVARDI, DANIEL BERRETO, JOHN
DOE, and NYC COPORATION COUNSEL,
interested party,

Defendants.

ORDER

~~11-cv-03596 (ENV) (JMA)~~

12 cv 173 (ENV)

VITALIANO, D.J.,

Plaintiff Clinton Campbell ("Campbell"), *pro se*, seeks damages against defendants, Stephen Bevardi, Daniel Berreto, John Doe, all of the New York City Police Department, for use of excessive force in violation of the Fourth Amendment pursuant to 42 U.S.C. § 1983. Plaintiff failed to answer repeated requests from the Court to update his address. On January 31, 2013, Magistrate Judge Joan M. Azrack issued a report and recommendation (the "R&R"), dismissing the case for failure to prosecute. In that R&R, Judge Azrack recommended the case be dismissed, with prejudice, for failure to prosecute, pursuant to Federal Rule of Civil Procedure 41(b) and the Court's inherent authority to dismiss a case *sua sponte* for failure to prosecute. *See Kaur v. Royal Arcadia Palace, Inc.*, No. 06-cv-4725, 2007 U.S. Dist. LEXIS 102186 *5 (E.D.N.Y. June 8, 2007) (citing *Link v. Wabash R.R. Co.*, 370 U.S. 626, 630-31 (1962)).

In reviewing a report and recommendation of a magistrate judge, a district judge "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1). Further, a district judge is required to "determine *de*

novo any part of the magistrate judge's disposition that has been properly objected to." Fed. R. Civ. P. 72(b)(3); *see also Arista Records, LLC v. Doe 3*, 604 F.3d 110, 116 (2d Cir. 2010). But, where no timely objection has been made, the "district court need only satisfy itself that there is no clear error on the face of the record" to accept a magistrate judge's report and recommendation. *Urena v. New York*, 160 F. Supp. 2d 606, 609-10 (S.D.N.Y. 2001) (quoting *Nelson v. Smith*, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985)).

No objections have been filed, and the time for doing so has passed. After careful review of the record, the Court finds the R&R to be correct, well-reasoned, and free of any clear error. The Court, therefore, adopts the R&R in its entirety as the opinion of the Court. Accordingly, the proceeding is dismissed without prejudice against all defendants due to plaintiff's failure to prosecute.

The Clerk of Court is directed to close this case.

SO ORDERED.

Dated: Brooklyn, New York
June 17, 2013

/s/(ENV)

ERIC N. VITALIANO
United States District Judge